

AMENDED IN SENATE JULY 2, 1997  
AMENDED IN ASSEMBLY MAY 15, 1997  
AMENDED IN ASSEMBLY MAY 1, 1997  
AMENDED IN ASSEMBLY APRIL 16, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 856**

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**Introduced by Assembly Member Hertzberg**  
*(Principal coauthor: Senator Leslie)*  
**(Coauthor: ~~Assembly Member Villaraigosa~~ Members**  
***Villaraigosa and Wildman*)**

February 27, 1997

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An act to add Title 7.5 (commencing with Section 14020) to Part 4 of the Penal Code, relating to crime prevention, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 856, as amended, Hertzberg. Crime prevention: Witness Protection Program.

(1) Existing law prohibits intimidation of witnesses and establishes a Victim-Witness Assistance Fund as well as local assistance centers for victims and witnesses.

This bill would establish the Witness Protection Program and require that the program be administered by the Attorney General to provide for the relocation or other protection of a witness in a criminal proceeding where there is credible evidence, as defined, of substantial danger that the

witness may suffer intimidation or retaliatory violence. The Attorney General would be authorized to enter into an agreement with the witness in accordance with specified terms.

~~The bill would appropriate \$149,000 from the General Fund to the Attorney General to implement the program.~~

*The bill would provide that a witness selected by the Attorney General to receive services under the program because he or she has been or may be victimized due to the testimony he or she will give shall be deemed a victim. The bill also would require the Attorney General to apply to the State Board of Control for reimbursement from the Restitution Fund for the costs incurred in providing services under the program and for grants allocated to county district attorney's offices that elect to continue administering a preexisting witness protection program, as specified.*

(2) *The Restitution Fund is continuously appropriated to the State Board of Control for the purpose of indemnifying victims of crime.*

*This bill would make an appropriation by expanding the purposes for which funds may be disbursed from the Restitution Fund.*

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Title 7.5 (commencing with Section  
2 14020) is added to Part 4 of the Penal Code, to read:

3

4 TITLE 7.5. WITNESS PROTECTION PROGRAM

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6 14020. There is hereby established the Witness  
7 Protection Program.

8 14021. As used in this title:

9 (a) "Witness" means any person who has been  
10 summoned, or is reasonably expected to be summoned,  
11 to testify in a criminal matter, including grand jury  
12 proceedings, for the people ~~when~~ *whether or not* formal  
13 legal proceedings have been filed. Active or passive

1 participation in the criminal matter does not disqualify an  
2 individual from being a witness. “Witness” may also apply  
3 to family, friends, or associates of the witness who are  
4 deemed by the Attorney General to be endangered.

5 (b) “Credible evidence” means ~~documentation~~  
6 *evidence* leading a reasonable person to believe that  
7 substantial reliability should be attached to the evidence.

8 (c) “Protection” means formal admission into a  
9 witness protection program established by this title  
10 memorialized by a written agreement between the  
11 Attorney General and the witness.

12 14022. The program shall be administered by the  
13 Attorney General. In any criminal proceeding within this  
14 state, whether the action is brought by state or local  
15 prosecutors, where credible evidence exists of a  
16 substantial danger that a witness may suffer intimidation  
17 or retaliatory violence, the Attorney ~~General shall~~  
18 ~~provide for the relocation or other protection of a witness,~~  
19 ~~as reasonably requested by the prosecution’s~~  
20 ~~investigative agency in that proceeding.~~ *General may*  
21 *reimburse state and local agencies for the costs of*  
22 *providing witness protection services.*

23 14023. The Attorney General shall give priority to  
24 matters involving organized crime, gang activities, drug  
25 trafficking, and cases involving a high degree of risk to the  
26 witness. Special regard shall also be given to the elderly,  
27 the young, battered, victims of domestic violence, the  
28 infirm, the handicapped, and victims of hate incidents.

29 14024. The Attorney General shall ~~take whatever~~  
30 ~~action~~ *coordinate the efforts of state and local agencies to*  
31 *secure witness protection services and then reimburse*  
32 *those state and local agencies for the costs of the services*  
33 *that he or she determines to be necessary to protect a*  
34 *witness from bodily injury and otherwise to assure the*  
35 *health, safety, and welfare of the witness, including the*  
36 ~~psychological well-being and the social adjustment of the~~  
37 ~~witness,~~ for as long as the Attorney General determines  
38 that the danger to the witness exists. The Attorney  
39 General may ~~provide the witness~~ *reimburse the state or*

1 *local agencies that provide witnesses* with any of the  
2 following:

3 (a) Armed protection or escort by law enforcement  
4 officials or security personnel before, during, or  
5 subsequent to, legal proceedings.

6 (b) Physical relocation to an alternate residence.

7 (c) Housing expense.

8 (d) Appropriate documents to establish a new  
9 identity.

10 (e) Transportation or storage of personal possessions.

11 (f) Basic living expenses, including, but not limited to,  
12 food, transportation, utility costs, and health care.

13 (g) Mental health counseling.

14 (h) Other services as needed.

15 14025. The witness protection agreement shall be in  
16 writing, and shall specify the responsibilities of the  
17 protected person that establish the conditions for the  
18 Attorney General providing protection. The protected  
19 person shall agree to all of the following:

20 (a) If a witness or potential witness, to testify in and  
21 provide information to all appropriate law enforcement  
22 officials concerning all appropriate proceedings.

23 (b) To refrain from committing any crime.

24 (c) To take all necessary steps to avoid detection by  
25 others of the facts concerning the protection provided to  
26 that person under this title.

27 (d) To comply with legal obligations and civil  
28 judgments against that person.

29 (e) To cooperate with all reasonable requests of  
30 officers and employees of this state who are providing  
31 protection under this title.

32 (f) To designate another person to act as agent for the  
33 service of process.

34 (g) To make a sworn statement of all outstanding legal  
35 obligations, including obligations concerning child  
36 custody and visitation.

37 (h) To disclose any probation or parole  
38 responsibilities, and if the person is on probation or  
39 parole.

1 (i) To regularly inform the appropriate program  
2 official of his or her activities and current address.

3 *14025.5. The Attorney General shall not be liable for*  
4 *any condition in the witness protection agreement that*  
5 *cannot reasonably be met due to a witness committing a*  
6 *crime during participation in the program.*

7 14026. Funds available to implement this title may be  
8 used for any of the following:

9 (a) To protect witnesses where credible evidence  
10 exists that they may be in substantial danger of  
11 intimidation or retaliatory violence because of their  
12 testimony.

13 (b) To provide temporary and permanent relocation  
14 of witnesses and provide for their transition and  
15 well-being into a safe and secure environment.

16 ~~(c) To train and supervise persons associated with~~  
17 ~~victim witness protection throughout the state.~~

18 (c) To train persons providing witness protection  
19 services.

20 (d) To pay the costs of administering the program.

21 *14026.5. (a) Notwithstanding Article 1*  
22 *(commencing with Section 13959) of Chapter 5 of Part 4*  
23 *of Division 3 of Title 2 of the Government Code, a witness,*  
24 *as defined in subdivision (a) of Section 14021, selected by*  
25 *the Attorney General to receive services under the*  
26 *program established pursuant to this title because he or*  
27 *she has been or may be victimized due to the testimony*  
28 *he or she will give, shall be deemed a victim.*

29 (b) The Attorney General shall apply to the State  
30 Board of Control for reimbursement from the Restitution  
31 Fund to the Attorney General for the costs incurred in  
32 providing services under the program and for the grants  
33 allocated pursuant to subdivision (b) of Section 14031.

34 (c) The board shall approve applications from the  
35 Attorney General within an average of 90 calendar days.

36 14027. The Attorney General shall issue appropriate  
37 guidelines and may adopt regulations to implement this  
38 title.

39 14028. The State of California, the counties and cities  
40 within the state, and their respective officers and

1 employees shall have immunity from civil liability for any  
2 decision declining or revoking protection to a witness  
3 under this title.

4 14029. *All information relating to any witness*  
5 *participating in the program established pursuant to this*  
6 *title shall remain confidential and is not subject to*  
7 *disclosure pursuant to the California Public Records Act*  
8 *(Chapter 3.5 (commencing with Section 6250) of*  
9 *Division 7 of Title 1 of the Government Code).*

10 14030. (a) *The Attorney General shall establish a*  
11 *liaison with the United States Marshal's office in order to*  
12 *facilitate the legal processes over which the federal*  
13 *government has sole authority, including, but not limited*  
14 *to, those processes included in Section 14024. The liaison*  
15 *shall coordinate all requests for federal assistance relating*  
16 *to witness protection as established by this title, including*  
17 *the requests from programs administered pursuant to*  
18 *subdivision (a) of Section 14031.*

19 (b) *The Attorney General shall pursue all federal*  
20 *sources that may be available for implementing this*  
21 *program.*

22 ~~14030.~~ *program. For that purpose, the Attorney*  
23 *General shall establish a liaison with the United States*  
24 *Department of Justice.*

25 14031. (a) *In any county in which there existed on*  
26 *June 1, 1997, a witness protection program in the district*  
27 *attorney's office, the witness protection program may, at*  
28 *the discretion of the district attorney, continue to be*  
29 *administered by the district attorney's office according to*  
30 *the requirements of this title.*

31 (b) *The Attorney General shall allocate a grant to each*  
32 *county district attorney's office that elects to administer*  
33 *a witness protection program pursuant to subdivision (a).*  
34 *In any fiscal year, the amount of the grant shall be a*  
35 *percentage of the total funds expended by the program*  
36 *established by this title in that fiscal year equal to the*  
37 *percentage of violent felony arrests in that county during*  
38 *the prior calendar year as compared to the total number*  
39 *of violent felony arrests in the state during that calendar*  
40 *year. The amount of the grant may be decreased by the*

1 *Attorney General if exceptional circumstances relating to*  
2 *the need to provide witness protection services in other*  
3 *counties require the redirection of funds.*

4 14032. Commencing one year after the effective date  
5 of this title, the Attorney General shall make an annual  
6 report to the Legislature no later than January 1 on the  
7 fiscal and operational status of the program.

8 ~~SEC. 2. The sum of one hundred forty-nine thousand~~  
9 ~~dollars (\$149,000) is hereby appropriated from the~~  
10 ~~General Fund to the Attorney General to implement the~~  
11 ~~Witness Protection Program pursuant to this act.~~

12 14033. *The reimbursement of the Attorney General*  
13 *pursuant to this title in any fiscal year shall be limited to*  
14 *the funds available in excess of the amount intended for*  
15 *victim restitution and a prudent reserve, as determined*  
16 *by the Board of Control and the Department of Finance,*  
17 *in the Restitution Fund.*

